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Paper No.

PRO-TECHTOR INTERNATIONAL  
SERVICES  
20775 NORADA CT.  
SARATOGA CA 95070

**COPY MAILED**

SEP 17 2008

**OFFICE OF PETITIONS**

In re Application of	:	
Fuhsing Tan	:	DECISION ON PETITION
Application No. 10/784,162	:	
Filed: February 24, 2004	:	
Title: Golf Bag	:	

This is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION" filed February 28, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the final Office Action mailed June 11, 2007. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply received and no extension of time obtained, the above-identified application became abandoned on September 12, 2007. A courtesy Notice of Abandonment was mailed on January 17, 2008.

In response, the instant petition was filed. Therein, practitioner Willgohs asserts that the final Office action and the Notice of Abandonment were not received by my office. Petitioner submits that the reason for non-receipt is an improperly submitted Change of Correspondence Address, filed electronically on February 24, 2007. Petitioner maintains that no supporting Change of Power of Attorney has been submitted, or authorized by Applicant.

A review of the application file reveals the following:

- On February 24, 2004, this application was filed by practitioner Kening Li, Ph.D., naming Fuhsing Tan as sole inventor. The application included a declaration executed

by sole inventor Tan, appointing the attorneys associated with Customer Number 23911 (Crowell & Moring, LLP) to prosecute this application and transact all business in the USPTO connected therewith. The application also included an application data sheet setting forth the correspondence address of record as that of Customer Number 23911. No assignee was identified in these papers.

- On June 8, 2006, Attorney-at-Law Lin-Yun Cheng on behalf of Pro-TECHTOR INTERNATIONAL SERVICES transmitted to the Office a POWER OF ATTORNEY BY INVENTOR/ASSIGNEE OF RECORD WITH REVOCATION OF PRIOR POWERS executed by sole inventor Fu-Hsing Tan. This power of attorney revoked all previous powers of attorney and appointed the practitioners associated with Customer Number 000047625 (Pro-TECHTOR International Services).
- It is noted that the transmittal filed June 8, 2006 was improperly transmitted to the extent that the transmittal was signed by attorney Cheng who does not appear to be a registered patent practitioner. Further, no 3.73(b) statement accompanied this filing authorizing attorney Cheng to act on behalf of Pro-TECHTOR. Moreover, there is no indication that an assignment to Pro-TECHTOR accompanied this filing. Further, the POWER OF ATTORNEY executed by inventor Tan set forth a Customer Number for power of attorney, but did not set forth a correspondence address.
- On June 26, 2006, the Office mailed a NOTICE REGARDING CHANGE OF ATTORNEY to the former attorneys at Customer Number 23911 (Crowell & Moring, LLP), advising them that their power of attorney had been revoked and all future correspondence will be mailed to the new address. The Office also mailed a NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY, to PRO-TECHTOR INTERNATIONAL SERVICES. This Notice advised Pro-TECHTOR that the Power of Attorney was accepted and that their address had become the correspondence address of record.
- The Office did not receive any response from Crowell & Moring, LLP to the NOTICE REGARDING CHANGE OF ATTORNEY.

- On December 29, 2006, the Office mailed a non-final Office action to the correspondence address of record (Pro-TECHTOR).
- On February 27, 2007, the Office received the electronically filed CHANGE OF CORRESPONDENCE ADDRESS signed by former practitioner of record Li as attorney of record. This paper requested that the correspondence address of record be changed to that of the law firm of Baker Donelson Bearman Caldwell & Berkowitz. No paper signed by sole inventor Tan revoking the power of attorney to Pro-TECHTOR accompanied this submission.
- On March 5, 2007, practitioner Willgohe on behalf of Pro-TECHTOR timely filed an amendment in response to the Office action mailed December 29, 2006.
- On March 6, 2007, former practitioner of record Li again electronically filed a CHANGE OF CORRESPONDENCE ADDRESS requesting that the correspondence address of record be changed to that of the law firm of Baker Donelson Bearman Caldwell & Berkowitz. Again, no paper signed by sole inventor Tan revoking the power of attorney to Pro-TECHTOR accompanied this submission. However, the address of record was changed to that of BAKER DONELSON.
- On June 11, 2007, the Office mailed a final Office action to the correspondence address of record (BAKER DONELSON).
- On January 17, 2008, the Office mailed a notice of abandonment for failure to file a response to the final Office action mailed June 11, 2007.
- On February 28, 2008, the instant petition was filed.

Petitioner's arguments have been considered and the record has been carefully reviewed. It is concluded that the presumption that the Office properly mailed the Office action mailed June 11, 2007 to the applicant at the correspondence address of record is overcome. The record supports a conclusion that the changes of correspondence address filed February 27, 2007 and March 6, 2007, were filed in error by practitioner Li and entered in error by the Office. (It is noted that it was informally confirmed with the Baker Donelson Office of

practitioner Li that the changes of address were filed in error as alleged by petitioner). More importantly, pursuant to inventor Tan's revocation of prior attorneys of record, practitioner Li was not of record and thus, the change of address filed by practitioner Li on March 6, 2007 should not have been entered. Given this error, the Office action was improperly mailed to the address of practitioner Li. Under the circumstances, withdrawal of the holding of abandonment is warranted.

In view thereof, the Notice of Abandonment mailed January 17, 2008 and holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The correspondence address has been changed back to that of Customer Number 000047625, consistent with the Notice mailed June 26, 2006 and the arguments on petition. However, petitioner should be aware that the paper filed June 8, 2006 by the sole inventor was only a power of attorney and did not set forth a new correspondence address. To be effective to change both the attorneys of record and the correspondence address, a paper filed for such purpose must explicitly request both changes and be signed by a proper party. A power of attorney in of itself does not change the correspondence address. (No assignee has established the right to take action, such as changing the correspondence address, in this case. See 37 CFR 3.73(b) and MPEP 324).

Technology Center AU 3714 has been advised of this decision. The application is, thereby, forwarded for the technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response filed February 28, 2008.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.



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